dependent claim 25 that were not previously considered and that are directed to a narrower range for the inclination angle of the reinforcing elements in the outermost layer.

In view of the Examiner's position, Applicant is filing the attached RCE to have the Amendment of January 28, 2004 entered and considered in its entirety.

By entry of the Amendment of January 28, 2004, claim 1 is amended to recite that "the outermost cord layer has a width extending toward an end of the tread portion over an outermost groove edge of an outermost circumferential groove in a widthwise direction of the tread portion and being narrower than a width of the innermost cord layer but being equal to or wider than a width of the middle cord layer . . . ."

In the Advisory Action, the Examiner asserted that the foregoing features are disclosed or suggested in Figs. 3a and 3b of Farnsworth. Applicant respectfully disagrees.

Figure 3a of Farnsworth discloses a ply breaker assembly. The uppermost ply has a low bias (i.e. 10-25 degrees) and a width that is less than that of the middle ply layer. Figures 3b and 3c each discloses a ply breaker assembly with the uppermost ply having a high bias (i.e. 40-70 degrees) and a width that is greater than that of the middle ply layer, ***but also greater than that of the lowest ply layer***. Therefore, none of the embodiments of Farnsworth disclose the combination of features that make up the pneumatic radial tire of Applicant's claim 1.

Evidently acknowledging this deficiency, the Examiner refers to the arguments made in the Office Action of August 12, 2003, in which the Examiner states that Farnsworth "places no criticality on the axial extent of the outer, high angled layer in relation to the inner and middle layers, only stating that the maximum axial width of the belt assembly (as a whole) is in the

range of 90 to 110% of the tread width." Office Action of August 12, 2003 at page 6. Therefore, the Examiner concludes, "[t]he specific selection of an embodiment in which the high angled layer is wider than the middle layer and narrower than the innermost layer would have been within the purview of one of ordinary skill in the art . . ., particularly since it is well known to stagger the ends of belt plies so stresses do not build up at the ply ends." Id.

Applicant respectfully submits that the Examiner is taking away from Farnsworth teachings or suggestions that clearly are not rooted in the disclosure itself, but are based on improper hindsight reconstruction using Applicant's claims as a roadmap. Indeed, the fact that Farnsworth discloses certain so-called "staggered" configurations, but ***none*** of which correspond to Applicant's recited configuration would likely lead the skilled artisan away from Applicant's invention.

To establish a prima facie case of obviousness, it is well established that there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. See Manual Of Patent Examining Procedure ("MPEP") at Section 2143. Furthermore, as the Federal Circuit has emphasized, the USPTO is held to a rigorous standard when trying to show that an invention would have been obvious in view of the combination of two or more references. *See, In re Sang Su Lee*, 2002 U.S. App. LEXIS 855, *10 (Fed. Cir. 2002), *citing, e.g., In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) ("Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is

rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references [or modify a reference].").

The very general assertion that "[t]he specific selection of an embodiment in which the high angled layer is wider than the middle layer and narrower than the innermost layer would have been within the purview of one of ordinary skill in the art . . . ." is certainly not rooted in the disclosure of any applied art. Likewise, the Examiner has not pointed to any prior art disclosure to support the assertion that "it is well known to stagger the ends of belt plies so stresses do not build up at the ply ends." In fact, given the *large number* of elements that make up a pneumatic radial tire and the *interdependencies* of these elements, one cannot reasonably base an art rejection on such general and vague assertions. Rather, even if, for the sake of argument alone, one accepts that "it is well known to stagger the ends of belt plies so stresses do not build up at the ply ends," at best the skilled artisan reading Farnsworth would have selected from the staggered configurations *disclosed in* Farnsworth in combination with the other features disclosed in that reference. Beyond that, the reference and prior art as whole provides no teaching or suggestion in the direction of Applicant's claimed invention.

Moreover, as explained by the Applicant at pages 22-23, the cut resistance and the separation resistance of the pneumatic radial tire is improved by the unique belt structure in which the outermost cord layer has a width that is narrower than the width of the innermost cord layer but equal to or wider than a width of the middle cord layer as shown in Fig. 8. None of the applied references even hints at such a structure, and, therefore, the advantages of Applicant's recited structure cannot be obtained using the pneumatic radial tires disclosed in the applied art

whether taken individually or in combination. In response to the statement made in the Advisory Action that such benefit is not given patentable weight (*see* Advisory Action at page 2, citing *Ex parte Obiaya* 227 USPQ 58, 60 (BPAI 1985)), Applicant submits that the applied art does not teach or suggest a pneumatic radial tire that inherently possesses the advantages identified in Applicant's disclosure. That is, these advantages are ***not*** latent properties of any of the embodiments disclosed or suggested by Farnsworth and, therefore, patententable weight should be given to the foregoing advantages.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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23373
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Date: March 30, 2004